

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DANIEL PATRICK SHEEHAN,	:	CIVIL NO. 1:18-CV-1748
	:	
Petitioner	:	(Chief Judge Conner)
	:	
v.	:	
	:	
WARDEN CATRICIA L. HOWARD,	:	
	:	
Respondent	:	

ORDER

AND NOW, this 31st day of May, 2019, upon consideration of petitioner's motion (Doc. 15) summary judgment, and the court finding that petitioner's motion is inappropriate and unnecessary in a habeas proceeding, because, under the Federal Rules of Civil Procedure, the procedure the court should follow when entertaining an application for a writ of habeas corpus under 28 U.S.C. § 2241 begins with the issuance of a service order, followed by the filing of a response by the person having custody of the petitioner, the filing of a reply by the petitioner, then a hearing, if deemed necessary by the court, and a decision, see 28 U.S.C. § 2243; see, e.g., Cool v. Pennsylvania, 2008 WL 2858310 (M.D. Pa. 2008) (finding that a motion for summary judgment is inappropriate in a section 2254 habeas action); Atkins v. United States, 1990 WL 126196, *3 (D.N.J. 1990) ("the habeas corpus

statute seems to treat the petition itself as the equivalent of a petitioner-initiated summary judgment motion”) (citing 1 J. Liebman, *Federal Habeas Corpus Practice and Procedure* § 17.3 (1988)), it is hereby ORDERED that the motion (Doc. 15) is DENIED.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania